

ATTACHMENT

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PART 1



U.S. Department of Justice
Federal Bureau of Prisons

Program Statement

OPI: FPI
NUMBER: 8120.02
DATE: 7/15/99
SUBJECT: Work Programs for

Inmates - FPI

1. [PURPOSE AND SCOPE §345.10. It is the policy of the Bureau of Prisons to provide work to all inmates (including inmates with a disability who, with or without reasonable accommodations, can perform the essential tasks of the work assignment) confined in a federal institution. Federal Prison Industries, Inc. (FPI) was established as a program to provide meaningful work for inmates. This work is designed to allow inmates the opportunity to acquire the knowledge, skills, and work habits which will be useful when released from the institution. There is no statutory requirement that inmates be paid for work in an industrial assignment. 18 U.S.C. 4126, however, provides for discretionary compensation to inmates working in Industries. Under this authority, inmates of the same grade jobs, regardless of the basis of pay (hourly, group piece, or individual piece rates) shall receive approximately the same compensation. All pay rates under this part are established at the discretion of Federal Prison Industries, Inc. Any alteration or termination of the rates shall require the approval of the Federal Prison Industries' Board of Directors. While the Warden is responsible for the local administration of Inmate Industrial Payroll regulations, no pay system is initiated or changed without prior approval of the Assistant Director, Industries, Education, and Vocational Training

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(Assistant Director).]

2. **SUMMARY OF CHANGES.** Due to recently amended regulations, eligibility of inmates to work in FPI's work programs has changed. Except in certain circumstances, an inmate or detainee will no longer be eligible for consideration or assignment with

[Bracketed Bold - Rules]

Regular Type - Implementing Information
FPI if classified as a pretrial inmate or an inmate who is currently under an order of deportation, exclusion, or removal. Effective upon issuance of this Policy Statement, 120 days will be given for implementing the policy changes concerning such inmates.

In addition to the changes made in policy concerning eligibility of inmates, other changes were made, such as all references to the WITSEC Program have been deleted since this is covered under other Bureau policy. For clarity, changes were also made to Table I of Chapter 5, entitled **Guidelines for Inmate Pay and Benefits**.

3. **PROGRAM OBJECTIVES.** The expected results of this program are:

- a. Work opportunities will be provided to eligible inmates.
- b. Each inmate will obtain knowledge, skills, and work habits to use upon release.
- c. Inmates working in FPI factories will be compensated according to the grade level attained.
- d. FPI Corporate Management will negotiate a Memorandum of Agreement with each Warden and the Superintendent of Industries (SOI) annually specifying the level of inmate employment.
- e. Inmate worker positions will be classified appropriately based upon principles of pay equity, economy and workforce resources.
- f. An FPI work opportunities presentation will be made during each Admission and Orientation session.
- g. Waiting lists for hiring purposes will be maintained; exceptions may be made for needed skills, prior FPI assignment, factory change, or special needs.

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h. FPI will not discriminate on the basis of race, color, religion, ethnic origin, age, or physical handicap.

i. Each inmate worker will receive a semi-annual performance evaluation.

j. An inmate will be promoted when the inmate's work skills, abilities, qualifications, and work performance demonstrate an ability to handle more complex assignments provided the inmate has sufficient time-in-grade.

k. An inmate will be removed from FPI work status for violation of the pay and benefits provisions, failure to discharge financial responsibility program requirements, or following disciplinary transfer or segregation.

l. Inmates seeking FPI work assignments above Grade 4 must possess a high school diploma or GED or be satisfactorily enrolled in a literacy program.

m. Premium pay, incentive pay, piecework rates, overtime, longevity, vacation, administrative, holiday, and inmate performance pay will be given to eligible inmates.

n. Each inmate will receive a monthly earnings statement.

o. Eligible inmates will receive commendations or cash awards for special work achievements, scholarships, suggestions, inventions, or self-development.

p. Each inmate will receive job safety training.

q. Post-secondary scholarships will be offered to selected, qualified inmate workers.

r. Appropriate records will be maintained on inmate workers.

4. DIRECTIVES REFERENCED

a. Directive Rescinded

PS 8120.01 Work Programs for Inmates, FPI (3/27/95)

b. Directives Referenced

PS 1600.07 Occupational Safety and Environmental Health
(5/30/96)

PS 5180.04 Central Inmate Monitoring System (8/16/96)

PS 5251.04 Work and Performance Pay Program, Inmate

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(1/11/96)
 PS 5270.07 Inmate Discipline and Special Housing Units
 (12/29/87)
 PS 5290.11 Admission and Orientation Program (3/5/98)
 PS 5300.18 Occupational Education Programs (12/23/96)
 PS 5350.25 Literacy Program (GED Standard) (9/29/97)
 PS 5380.05 Financial Responsibility Program, Inmate
 (12/22/95)
 PS 8000.01 UNICOR Corporate Policy and Procedures
 (5/13/81)

c. Rules cited in this Program Statement are contained in 28 CFR 345.10 - 345.84.

5. STANDARDS REFERENCED

American Correctional Association 3rd Edition Standards for Adult Correctional Institutions: 3-4394, 3-4397, 3-4398, 3-4403, 3-4404 and 3-4407

6. [DEFINITIONS §345.11

a. Federal Prison Industries, Inc. (FPI). A government corporation organizationally within the Bureau of Prisons whose mission is to provide work simulation programs and training opportunities for inmates confined in Federal correctional facilities. The commercial or "trade" name of Federal Prison Industries, Inc. is UNICOR. Most factories or shops of Federal Prison Industries, Inc. are commonly referred to as "UNICOR" or as "Industries." Where these terms are used, they refer to FPI production locations and to the corporation as a whole. UNICOR, FPI, and Industries are used interchangeably in this manner. For these purposes, Federal Prison Industries, Inc. will hereinafter be referred to as FPI.

b. Superintendent of Industries (SOI). The Superintendent of Industries, also referred to as Associate Warden/Industries and Education, is responsible for the efficient management and operation of an FPI factory. Hereinafter, referred to as SOI.

c. FPI Work Status. Assignment to an Industries work detail.

(1) An inmate is in FPI work status if on the job, on sick call during the inmate's assigned hours, on furlough, on vacation, for the first thirty days on writ, for the first 30 days in administrative detention, or for the first 30 days on medical idle for FPI work-related injury so long as the injury

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did not result from an intentional violation by the inmate of work safety standards.

(2) Full-Time Work Status. A work schedule for an inmate consisting of 90% or more of the normal FPI factory work week.

(3) Part-Time Work Status. A work schedule of less than 90% of the normal FPI factory work week.

d. Unit Team. Bureau of Prisons staff responsible for the management of inmates and the delivery of programs and services.

The Unit Team may consist of a unit manager, case manager, correctional counselor, unit secretary, unit officer, education representative, and psychologist.

e. Unit Discipline Committee (UDC). The term Unit Discipline Committee refers to one or more institution staff members delegated by the Warden with the authority and duty to hold an initial hearing upon completion of the investigation concerning alleged charge(s) of inmate misconduct (see 28 CFR 541.15). The Warden shall authorize these staff members to impose minor sanctions for violation of prohibited act(s).]

28 CFR 541.15 refers to the Program Statement on Discipline and Special Housing Units.

In institutions with Unit Management, the authority to hold initial hearings and impose minor sanctions is ordinarily delegated to the staff assigned to the inmate's unit. Where the institution does not have a Unit Management System, the Warden shall delegate to one or more institution staff members the authority to hold initial hearings and impose minor sanctions.

[f. Discipline Hearing Officer (DHO). This term refers to an independent discipline hearing officer who is responsible for conducting Institution Discipline Hearings and who imposes appropriate sanctions for incidents of inmate misconduct referred for disposition following the hearing required by 28 CFR 541.15 before the UDC.]

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28 CFR 541.15 refers to the Program Statement on Discipline and Special Housing Units.

The Discipline Hearing Officer may be assigned to one institution or may be responsible for conducting institution discipline hearings at several different institutions.

[g. Pretrial Inmate. The definition of pretrial inmate in 28 CFR 550.101(a) is applicable to this part.]

Such an inmate is defined as a person that is legally detained but for whom the Bureau of Prisons has not received notification of conviction. Thus, 'pretrial inmate' ordinarily includes a person awaiting trial, being tried, or awaiting a verdict.

h. DOT Code. Dictionary of Occupational Titles issued by the U.S. Department of Labor.

I. Inmate Employment. Terms such as "work," "worker," "employment," "hire," etc., refer to participation in an FPI work program.

7. PROCEDURES. Each location that has FPI operations shall be issued a copy of this policy, and shall conform to the procedures set forth herein.

/s/
Kathleen Hawk Sawyer
Director

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INTRODUCTION

The task of hiring and managing the growing number of inmate workers in Federal Prison Industries requires this policy on FPI Inmate Work Programs. It provides clarifications and updates that should assist FPI staff and inmates in day-to-day decision-making, regarding inmate work assignments, pay, and benefits.

This policy contains changes in the areas of inmate education requirements in addition to longevity and pay grade retention benefits. It contains provisions covering all aspects of inmate work in FPI, including inmate worker standards as the basis for inmate personnel management; information regarding FPI benefits and disciplinary actions; premium pay and longevity pay; restrictions on administrative pay; and incentive awards and scholarships to inmates.

CHAPTER 1

DELEGATION OF AUTHORITY, INMATE PERSONNEL MANAGEMENT SYSTEM

1. **PURPOSE/SUMMARY.** To establish delegation of authority for inmate worker personnel matters.
2. **DELEGATIONS.** The Director, Bureau of Prisons, redelegates the authority for general administration of inmate worker personnel matters to the Assistant Director, Industries, Education, and Vocational Training (hereinafter referred to as Assistant Director). Certain functions can then be redelegated by the Assistant Director to the SOI as indicated below.
 - a. **Selection Authority.** Authority to employ inmates and to select inmates for key positions, premium pay positions, and other specialized positions as may become available to inmate workers in Federal Prison Industries (FPI) is delegated to the SOI after appropriate screening by the Unit Team.

The SOI may further delegate the selection authority to FPI staff via an official memorandum to those staff members from the

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SOI.

b. **Classification Authority.** Authority to classify inmate worker positions is delegated to the SOI.

c. **Corrective Action Authority.** Authority to take FPI corrective actions regarding an inmate worker is delegated to the SOI.

(1) Violations of FPI Inmate Worker Standards may be handled within the local FPI organization structure at the SOI's discretion, and are to be appropriately documented.

(2) Violations of Bureau rules are processed in accordance with the Program Statement on Inmate Discipline and Special Housing Units.

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CHAPTER 2

LABOR UTILIZATION AND [POSITION CLASSIFICATION]

1. **GENERAL.** It is FPI's policy to employ inmate resources efficiently. During the annual FPI planning cycle, FPI will negotiate a Memorandum of Agreement (MOA) with each Warden and SOI on the level of inmate employment in FPI necessary to support planned sales and earnings for the FPI operation at each facility.

2. **ACTION.** Superintendents of Industries shall, at a minimum, complete the procedures listed below to assure the effective employment of inmate resources.

SOIs shall formulate an inmate worker staffing pattern annually prior to the annual planning visit. The SOI will note turnover rates, workload increases and decreases expected, labor availability, expected population trends, and anticipated mission, product, and/or program changes that will have a significant impact on industries operations. This may be executed as a part of a total workforce assessment effort in which both civilian and inmate workforce is examined. SOIs are advised to have the analysis available for discussion with Corporate executives, program managers, and others as needed.

a. Review all short range operation plans (one year or less) in order to assess inmate workforce needs.

b. Review projected and actual overtime use and design methods of reducing overtime costs while optimizing inmate employment.

c. Review the results of all program reviews to improve the institution's industrial program.

d. Make recommendations on the consolidation of functions, reorganization, duplication of effort, layering, better use of technology, vertical integration, and other means of workforce utilization.

3. [POSITION CLASSIFICATION §345.20]

a. Inmate worker positions must be assigned an appropriate level of pay. All inmate workers shall be informed of the

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objectives and principles of pay classification as a part of the
routine orientation of new FPI inmate workers.]

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Pay rates are set by the Board of Directors of FPI, and implemented with appropriate Bureau directives.

[b. The Warden and SOI have the responsibility for position classification at each location.]

Position classification shall be treated as an integral part of the total inmate worker personnel management system. The classification program should represent a balance of pay equity, economy, and workforce resources.

(1) **Pay Equity.** Position classification should result in pay equity. Differences in compensation paid to different inmate workers will be proportional to the differences in the difficulty, responsibility, and qualification requirements of the work performed. Individuals with similar skills and job assignments should receive similar pay.

(2) **Economy.** Good position management requires that inmate worker positions are established properly consistent with the soundest and most economical organizational structure to accomplish the mission efficiently. The skills assigned to a position should be consistent as to type and level, with higher level skills concentrated in higher level positions and with lower level skills concentrated in lower level positions.

(3) **Workforce Resources.** The available quality and level of skills existing among inmates within the institution as well as the potential for development through training should be considered. As vacancies arise, those individuals with the necessary skill potential will be advanced.

4. UNDERSTANDING OF THE PROGRAM. It is essential that inmate workers be informed of the standards of the pay classification system and understand the basis for determining their pay system and their resulting pay grades.

a. **Purpose.** This establishes the requirements and responsibilities for position classification in FPI as it pertains to inmate workers.

b. **Responsibility.** While the Warden and SOI have the responsibility for position classification at each location, all FPI managers must support that responsibility by ensuring that inmate workers are accurately classified and graded.

c. **Position Classification Files and Records.** Position classification files and records should be available for easy access and use by local FPI staff, auditors, program management staff, and/or other official visitors. They should contain the following information:

(1) An FPI Form 83 summarizing all operative positions in the FPI factory. This document lists each job by job number, title using the DOT code, and total positions in each pay grade level.

(2) An FPI Form 82 summarizing the data needed to grade an inmate. It is essential that the duties actually performed agree with the Form 82 requirements.

(3) Documentation of any special actions taken which may depart from this policy, e.g., "jumping inmates ahead" on the Waiting Lists, hiring at higher than entry level wages, etc.

d. **Classification Maintenance**

(1) **Position Changes.** Position changes, except for temporary or "acting" positions, are to be posted on the FPI Form 83. FPI Form 82s will reflect the changes put into the record covering the new positions, as necessary.

(2) **Cyclic Review.** A review of inmate worker positions should be completed prior to the annual MOA meeting and for any major product line change. These reviews should be submitted to the Program Manager along with the suggested FPI factory profile.

(3) **Certification.** All FPI managers should be able to certify to the SOI that the positions are necessary and are accurately described.

5. **CLASSIFICATION INTEGRITY.** The accuracy of inmate pay grade classification (FPI Form 82) may be checked during program reviews. An audit sample which displays a large degree of disparity between the duties actually performed and the work as described on the Form 82 will be sufficient to require further review of inmate job classifications for that FPI factory.

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CHAPTER 3

[RECRUITMENT AND HIRING PRACTICES].

1. [RECRUITMENT. §345.31 Inmate workers for FPI locations may be recruited through admission and orientation lectures or through direct recruiting.]

a. **Admission and Orientation Lectures.** Each SOI is required to assure that a lecture (and/or film or videotape presentation) is presented to each group of inmates during the Admission and Orientation (A&O) program. Each location shall have a written lecture or outline to ensure that all inmate A&O classes receive the same information.

(1) An appropriate amount of time shall be left open for answering questions from inmates.

(2) Each lecture or videotape or film presentation shall, at a minimum, cover the following topics:

- (a) An introduction to FPI, including its mission;
- (b) FPI worker standard expectations;
- (c) Inmate pay and benefits;
- (d) Local rules and hours of operation;
- (e) Recruitment, hiring, and dismissal procedures;
- (f) Safety and sanitation responsibilities;
- (g) The products, their uses, and the major customers at the local FPI factory; and
- (h) The value of the FPI work experience in correctional adjustment and in skills development for post-release employment.

b. **Direct Recruiting.** The SOI may solicit inmates with needed skills for employment in Industries. The SOI and other FPI employees may inform prospective workers of the benefits of a career with FPI prior to receipt of the workers' applications for employment in industries.

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2. [HIRING. §345.32

a. Inmate workers are ordinarily hired through waiting lists. Except as noted in §345.33, inmates are to be placed on the waiting lists in order of receipt of applications for work with Industries, and are to be hired in the same sequence.]

28 CFR 345.33 refers to Section 3 of this Chapter.

[b. Waiting lists are to be maintained and kept available for scrutiny by auditors and other staff with a need to know. SOIs are encouraged to maintain a waiting list for each FPI factory.]

3. [WAITING LIST HIRING EXCEPTIONS. §345.33

a. Needed Skills. An inmate may be hired ahead of other inmates on the waiting list if the inmate possesses needed skills and the SOI documents the reasons for the action in the position classification files.]

Inmates who would be half-time workers while participating in other correctional programs should be handled on the same priority basis.

[b. Prior FPI Work Assignment. An inmate with prior FPI work experience during the inmate's current commitment and with no break in custody will ordinarily be placed within the top ten percent of the waiting lists unless the inmate was transferred for disciplinary reasons, was placed in segregation, or voluntarily left the FPI work assignment for non-program reasons (i.e. for some reason other than formal education, vocational training, drug abuse or similar formal programs). For example, an inmate transferred administratively for nondisciplinary reasons, and who has documented credit as a prior worker, is covered under the provisions of this paragraph.]

Such an inmate is designated "priority transfer" and is to be placed in the priority order as described above in Section 2.a. on the waiting lists at the time of application. Inmates who would be half-time workers while participating in other correctional programs should be handled on the same priority basis.

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[c. Industry Closing and Relocation. When an FPI factory closes in a location with two or more FPI factories, an inmate worker affected may be transferred to remaining FPI factories ahead of the top portion of the inmates on the waiting lists, so there is no break in active duty with FPI. Such actions are also in order where the work force of an industry is reduced to meet institution or FPI needs. An inmate transferred under the provisions of this part will have the same benefits as any intra-industry transfer.]

Inmates who would be half-time workers while participating in other correctional programs should be handled on the same priority basis.

[d. Disciplinary Transfers. An inmate who is a disciplinary transfer from the last institution designated and who wishes re-assignment in FPI at the receiving institution may be hired on a case-by-case basis at the discretion of the SOI, who should consider the security level and reasons for the misconduct. Such an inmate, despite prior experience, is not due special placement on the waiting list, is not given advance hiring preference, and does not receive consideration for accelerated promotion back to the grade held at time of transfer.

e. Special Needs. For special needs, such as Inmate Financial Responsibility assignment, to assist in paying a significant financial obligation or for release preparation, the unit team may recommend an inmate for priority placement on the waiting list. Such placement must be documented and include the reason for the exception.]

See Section 6.d of the Program Statement on the Financial Responsibility Program, Inmate.

4. [REFUSAL TO EMPLOY. §345.34

a. The SOI has authority to refuse an FPI assignment to an inmate who, in the judgment of the SOI, would constitute a serious threat to the orderly and safe operation of the FPI factory. A refusal to assign must be documented by a memorandum to the unit team listing reasons for the refusal, with a copy to

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the position classification files in FPI. Typically, the reasons should include other earlier (ordinarily within the past twelve months) documented violations of the FPI inmate worker standards or institution disciplinary regulations.

b. The refusal to assign is to be rescinded when, in the judgment of the SOI, the worker no longer constitutes a serious threat to the FPI industrial operation.]

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5. [ASSIGNMENTS TO FPI. \$345.35

a. An inmate or detainee may be considered for assignment with FPI unless the inmate is a pretrial inmate or is currently under an order of deportation, exclusion, or removal. However, an inmate or detainee who is currently under an order of deportation, exclusion, or removal may be considered for assignment with FPI if the Attorney General has determined that the inmate or detainee cannot be removed from the United States because the designated country of removal will not accept his/her return. Any request by an inmate for this consideration must be made through the unit team. FPI does not discriminate on the bases of race, color, religion, ethnic origin, age, or disability.]

Upon receiving written documentation from the Immigration and Naturalization Service (INS) or the Executive Office for Immigration Review (EOIR) that an inmate has been issued a deportation, exclusion, or removal order, the unit team is to add the SENTRY Case Management Assignment (CMA) of IHP CMP WD (group code description of immigration hearing complete - will deport). The SOI shall not include any inmate with a CMA of IHP CMP WD when determining eligibility for an FPI assignment, except as specified in Chapter 4, Section 4(d).

These inmates will be reassigned to non-FPI work assignments for which they are otherwise eligible. Unit staff shall also remove inmates with the IHP CMP WD assignment from the FPI Waiting List, except as specified in Chapter 4, Section 4(d). Inmates for whom no decision has been made to deport are unaffected by this policy. The SOI and Associate Warden of Programs coordinate notification to affected inmates of their pending removal from FPI work assignments.

[b. The SOI ordinarily makes assignments based on the recommendation of the unit team.

(1) New workers are ordinarily assigned at pay grade five. All first-time inmate workers shall enter at pay grade five and may be required to successfully complete a course in pre-industrial training or on-the-job training (as available) before promotion to pay grade four.

(2) An inmate who has not successfully completed pre-

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industrial or on-the-job training remains at pay grade five for at least 30 days.]

Inmates undergoing such training should expect a period of at least 30 days for successful completion of the training. After 30 days, promotions may occur based on available openings and job performance.

[(3) An inmate hired after having resigned voluntarily from FPI may be excused from pre-industrial training and may be hired at a pay grade based on previous training and experience.]

For example, an inmate who previously worked in the FPI print factory and is rehired to work again in the FPI print factory may be exempted from pre-industrial training. An inmate who previously worked in the FPI print factory and is rehired to work in the FPI broom factory may be required to complete a course in pre-industrial training at the SOI's discretion.

(4) Employing half-time workers is an excellent method of allowing the maximum number of inmates to take part in the FPI work experience. Half-time work is also encouraged because it grants inmates the opportunity to participate in a wide range of other correctional programs.

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CHAPTER 4

[INMATE WORKER STANDARDS AND PERFORMANCE APPRAISAL.]

1. [GENERAL. \$345.40 This subpart authorizes the establishment of minimum work standards for inmate workers assigned to the Industries program at all field locations. The SOI may reproduce these standards and may also develop additional local guidelines to augment these standards and to adapt them to local needs and conditions. Local Industries shall place these standards and any additional local guidelines on display at appropriate locations within the industrial sites. Inmates shall be provided with a copy of these standards and local guidelines, and shall sign receipts acknowledging they have received and understand them before beginning work in the Industries program. In the case of a disabled inmate, alternate media or means of communicating this information and indicating the inmate's receipt may be provided, if necessary as a reasonable accommodation.

a. At a minimum, each industrial location is to have work standards for each of the following areas:

(1) Safety. Ensuring the promotion of workplace safety and the avoidance of activities that could result in injury to self or others.

(2) Quality Assurance. Ensuring that work is done as directed by the supervisor in an attentive manner so as to minimize the chance of error.

(3) Personal Conduct and Hygiene. Ensuring the promotion of harmony and sanitary conditions in the workplace through observation of good hygiene and full cooperation with other inmate workers, work supervisors, and training staff.

(4) Punctuality and Productivity. Ensuring the productive and efficient use of time while the inmate is on work assignment or in training.

b. Compliance With Work Standards. Each inmate assigned to FPI shall comply with all work standards pertaining to his or her work assignment. Adherence to the standards should be

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considered in evaluating the inmate's work performance and documented in individual hiring, retention, and promotion/demotion situations.]

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2. INMATE WORKER STANDARDS. In general, inmate industrial workers should engage in all activities that promote workplace safety and avoid all activities that could result in injury to self or others.

a. Inmate Worker Safety: Minimum Acceptable Standards. Staff are to advise inmates to:

(1) Follow posted safety rules and procedures at all times while on work assignment;

(2) Report all injuries to the work supervisor immediately, no matter how minor or trivial the injury may appear to be;

(3) Use equipment, tools, or machinery only when directed by the work supervisor, and only in the manner told to use them;

(4) Keep the work area neat and orderly as required by local safety rules and by the work supervisor, so as to not pose a safety hazard to self or to others;

(5) Always use required protective equipment provided at the work site. Such equipment includes, but is not limited to, safety shoes, eye protection, ear protection, respirators or face masks, protective clothing, and other items which may be designated by the SOI;

(6) Actively participate in regularly-scheduled safety talks and other safety-related training; and

(7) Maintain a personal appearance that meets FPI factory safety requirements, e.g. hair may not be so long as to create an unnecessary safety hazard in the judgment of the SOI.

b. Quality Assurance Activities: Minimum Acceptable Standards. Staff are to advise inmates to:

(1) Perform the work exactly to the specifications the supervisor assigns;

(2) Be attentive in performing the work so as to minimize the chance of error(s);

(3) Make no changes in materials and/or production

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procedures without the work supervisor's explicit permission for each change made; and

(4) Repair or correct product defects resulting from defective workmanship; whether done by oneself or by others.

c. **Personal Conduct and Hygiene: Minimum Acceptable Standards.** Staff are to advise inmates to:

(1) Work without causing friction with other inmate workers, and cooperate fully with peers;

(2) Obey and cooperate fully with the work supervisor and/or training instructor by successfully completing assigned tasks in the manner prescribed;

(3) Not bring prohibited items to the work area; and

(4) Observe basic standards of grooming and good hygiene.

d. **Punctuality and Productivity: Minimum Acceptable Standards.** Staff are to advise inmates to:

(1) Report to the assigned work or training area promptly when coming to work at the beginning of a shift, after meal(s) and/or after breaks;

(2) Remain at work during the time designated by the local work schedule;

(3) Use work time efficiently and keep nonproductive time to a minimum during hours of FPI factory operation;

(4) Meet work requirements (production) the work supervisor establishes for those work stations having no specific production standards;

(5) Meet all established production standards;

(6) Demonstrate an ability to adapt to changing work conditions to meet the goals of the FPI factory (including job reassignments); and

(7) Demonstrate a willingness to develop additional skills through participation in, and completion of, on-the-job training and formal education and training programs.

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3. [PERFORMANCE APPRAISAL FOR INMATE WORKERS. \$345.41
Work supervisors should complete a performance appraisal form
for
each inmate semi-annually, by March 31 and September 30, or upon
termination or transfer from the industrial work assignment.
Copies shall be sent to the unit team. Inmate workers should
discuss their appraisals with their supervisors at a mutually

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agreeable time in order to improve their performance.
Satisfactory and unsatisfactory performance ratings shall be based on the standards in §345.40(a).]

28 CFR 345.40(a) refers to Section 1.a. of this Chapter.

[a. The SOI is to ensure that evaluations are done and are submitted to unit teams in a timely manner.

b. The SOI or a designee may promote an inmate to a higher grade level if an opening exists when the inmate's skills, abilities, qualifications, and work performance are sufficiently developed to enable the inmate to carry out a more complex FPI factory assignment successfully, when the inmate has met the institution's time-in-grade (unless waived by the SOI), and when the inmate has abided by the inmate worker standards. Conversely, the SOI or SOI designee may demote an inmate worker for failing to abide by the inmate worker standards. Such demotions shall be fully documented.]

(1) Each institution shall establish minimum times in grade, which shall not be less than the following:

(a) **Fifth Grade to Fourth Grade.** No time limit with a minimum of 30 days for inmates not having completed an FPI or pre-industrial training program.

(b) **All Other Promotions.** Ninety days except at court processing/short term facilities such as MCCs, FDCs and MDCs, where the minimum time in grade will be 30 days. There is a need to maintain additional pay incentives to encourage short term inmates to work in FPI at these facilities.

(2) The minimum time-in-grade requirement may not apply when an inmate has prior FPI work experience, or possesses needed skills, and is eligible for accelerated promotion. At the SOI's discretion, an accelerated promotion may be applicable in the following situations:

- (a) non-disciplinary transfer;
- (b) FPI factory closing;
- (c) after 30 days on writ;
- (d) after 30 days on medical idle;

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(e) after 30 days in administrative detention;
(f) withdrawal, in good faith, from a training, drug rehabilitation, or similar program.

c. **Performance Ratings and Corrective Actions.** SOIs should ensure that inmate performance ratings and corrective actions are used consistently to promote improved inmate work performance. SOIs should ensure that there is consistent granting\withholding of inmate pay, benefit, or award conditions described in Chapter 5 on Inmate Pay and Benefits and Chapter 6 on Awards, to improve the performance ratings given any particular inmate.

Regular documentation of satisfactory and unsatisfactory work performance is encouraged to form a basis for the inmate performance rating. Staff must fully document any action taken that directly increases or reduces inmate pay, benefits, or official awards, and the documentation should include the inmate worker standards.

For example, a specific corrective action would be that the SOI might disallow an inmate's Industrial Good Time for the month due to the inmate's unsatisfactory work performance. This would apply only to the month(s) in which the unsatisfactory work performance occurs. As another example, an SOI may demote an inmate to a lower pay grade for failing to meet the inmate worker standards, with full documentation to the unit team for the Inmate Central File and eventual documentation in the performance appraisal.

4. **[INMATE WORKER DISMISSAL. \$345.42** The SOI may remove an inmate from Industries work status in cooperation with the unit team.

a. The SOI may remove an inmate from FPI work status according to the conditions outlined in the pay and benefits section of this policy and in cooperation with the unit team.

b. An inmate may be removed from FPI work status for failure to comply with any court-mandated financial responsibility.
(See 28 CFR 545.11(d)).]

The SOI shall fully document the reason for dismissal in a memorandum to the unit team. 28 CFR 545.11(d) refers to Program

Statement on the Financial Responsibility Program, Inmate.

[c. An inmate found to have committed a prohibited act (whether or not it is FPI related) resulting in segregation or disciplinary transfer is also to be dismissed from Industries based on an unsatisfactory performance rating for failure to be at work.

d. Any inmate or detainee who is a pretrial inmate or who is currently under an order of deportation, exclusion, or removal shall be removed from any FPI work assignment and reassigned to a non-FPI work assignment for which the inmate is eligible. However, an inmate or detainee who is currently under an order of deportation, exclusion, or removal may be retained in the FPI assignment if the Attorney General has determined that the inmate or detainee cannot be removed from the United States because the designated country of removal will not accept his or her return.]

Upon receiving written documentation from the INS or the EOIR that an inmate has been issued a deportation, exclusion, or removal order, the unit team will add the CMA assignment of IHP CMP WD. The SOI shall remove from FPI work assignments all inmates with a CMA assignment of IHP CMP WD. These inmates will be reassigned to non-FPI work assignments for which they are otherwise eligible.

In addition, inmates with a deportation order who are appealing the decision are ineligible for FPI work assignments. If the inmate's appeal is granted, the inmate shall then be eligible to apply for an FPI work assignment, as he or she no longer has the CMA of IHP CMP WD. If he or she previously worked for FPI, his or her name shall be placed within the top 10 percent of the FPI Waiting List.

The SOI and AWP shall coordinate notification to the affected inmate of his or her pending removal from an FPI work assignment. Staff should remain sensitive and communicate with affected non-U.S. citizen inmates concerning this issue. Non-U.S. citizen inmates for whom no decision has yet been made to deport are unaffected by this policy.

It has been determined that Cubans (Mariels and non-Mariels) cannot be removed from the United States, and therefore should be considered for assignment with FPI. All other non-U.S. citizens who have been ordered deported, excluded, or removed

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(IHP CMP WD), should not be considered for an assignment with FPI, unless INS notifies the Detention Services Branch, Central Office, that a designated country of removal will not accept his or her return. This information will then be provided to Bureau staff. Inmates who claim countries will not accept them must obtain from INS such a determination in order for the inmate to be retained in a FPI work assignment. Staff having questions concerning which countries have such a determination should consult with the Detention Services Branch. Staff will refer to the Program Statement, Institution Hearing Program, for information on IHP CMA assignments.

CHAPTER 5

[INMATE PAY AND BENEFITS].

1. [GENERAL. \$345.50 Title 18 U.S. Code Section 4126 authorizes FPI to compensate inmates under rules and regulations promulgated by the Attorney General. It is the policy of FPI to provide compensation to FPI inmate workers through various conditions of pay and benefits, except as otherwise provided in these regulations.]

The various pay and benefit conditions allow performance-based recognition of the value of the inmate work performed based on the standards delineated in the previous chapter. Compensation in pay grades and other pay and benefit conditions is designed to be equitable and constructive for individual inmates.

2. PURPOSE AND SUMMARY. This chapter provides both a description of the various FPI inmate pay and benefit conditions as well as guidelines for granting, withholding, and rescinding the various pay and benefit conditions. Guidelines for major inmate worker benefits are also summarized in the table following this chapter. Additional detailed instructions for computing and executing payroll and benefit obligations may be found in the inmate payroll section of the FPI Accounting Manual.

3. [INMATE PAY. \$345.51

a. Grade Levels. Inmate workers in FPI locations receive pay at five levels ranging from 5th grade pay (lowest) to 1st grade pay (highest).]

The hourly compensation rates are as follows:

<u>Grade</u>	<u>Compensation Rate</u>
1	\$1.15
2	.92
3	.69
4	.46
5	.23

Time-in-grade requirements are covered in the section on performance appraisal.

[b. Eligibility]

(1) An inmate shall accrue vacation time, longevity service credit, and shall receive holiday pay for the period of time the inmate is officially assigned to the Industries work detail. For limitations on claims, refer to §345.66.]

28 CFR 345.66 refers to Section 20 in this Chapter. See Table I (Guidelines For Inmate Pay and Benefits) for writ conditions.

[(2) Inmate workers may be eligible for premium pay as specified in §345.52. Eligibility for other pay and benefits are described separately in this subpart.]

28 CFR 345.52 refers to Section 4 of this Chapter.

[(3) FPI pay and benefits are lost in cases of disciplinary transfer and segregation.

(4) An inmate returned to the institution due to program failure at a Community Corrections Center or while on parole or escape is not entitled to credit for time spent in Industries prior to said program failure. This rule also applies to any other program failure which results in a break in confinement status.]

(5) Inmate workers who wish to secure an FPI assignment above grade 4 of compensation or wish to work in incentive pay (piece work) positions must have obtained a GED or high school diploma. However, if labor force needs require, inmates who do

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not meet the literacy requirements may be employed in FPI incentive pay positions if they are simultaneously enrolled in a literacy or related program and provided they are found to be progressing at an acceptable level as defined by the Supervisor of Education.

Failure to maintain satisfactory progress shall result in termination of FPI incentive pay employment. Generally, for promotion purposes, the current literacy requirements do not apply to inmates who were promoted above entry level prior to May 1, 1991. These inmates fall under the literacy requirements which were in effect at the time of their promotion. (Refer to the Program Statement on Literacy Program (GED Standard))

4. [PREMIUM PAY. \$345.52 Payment of premium pay to selected inmates is authorized. The total number of qualifying inmates may not exceed 15% of first grade inmates at a location.]

[a. Eligibility. Inmates in first grade pay status may be considered for premium pay.

b. The Selection Process. Candidates for premium pay must be nominated by a foreman on the FPI staff, and recommended on the basis of specific posted criteria by a selection committee assigned by the SOI.

(1) The SOI, as the chief selecting official, must sign approval for all premium pay inmate selections. This authority may not be delegated below the level of Acting SOI.

(2) The selected candidate(s) are notified by the FPI Manager or by a posted list on the FPI bulletin board. A record of the selection and who was on the selection board is kept for documentation purposes. An inmate nominated to be a premium pay inmate may refuse the appointment without prejudice.]

c. Selection Criteria. Candidates for the position are rated on a scale of from one to ten points based on traits posted at the institution. Sample traits are given below:

TRAITS

POINTS

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1. Knowledge and Ability	1-10
2. Leadership	1-10
3. Initiative	1-10
4. Past Job Performance	1-10
5. Positive Attitude	1-10

[d. Pay Rate. Premium pay inmates receive a specified amount over and above all other pay and benefits to which they may be entitled (e.g., longevity pay, overtime, piecework rates, etc.).]

The premium pay rate is currently an additional \$.20 per hour. Premium pay for a pay grade 1 inmate earning overtime would be calculated as follows: $\$2.30 + .20 = \2.50 .

[Premium pay is also paid for vacation, holiday, and administrative hours.]

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e. **Duties of Premium Pay Inmates.** Premium pay is a means of recognizing the value of those traits supportive of morale and good institutional adjustment. It is not a form of bonus or incentive pay for highly productive inmates.]

Premium pay workers may legitimately be expected to help with assuring the flow of materials to work stations, more complex clerical and/or accounting tasks, warehouse organization, quality assurance integrity, training other inmates, etc. Inmates receiving premium pay are not to be used in any way as supervisors of other inmates. Specific duties of premium pay inmates are determined by local conditions and are articulated by local staff. All FPI locations employing premium pay inmates shall keep appropriately executed FPI Form 82s on hand for each premium pay position, and shall discuss the specific duties thoroughly with each new premium pay worker.

[f. **Transfer Status Of Premium Pay Inmates.** Premium pay status may not be transferred from institution to institution with the inmate worker. Premium pay status must be earned at each location.]

In recognition of the often singular contributions of such workers to FPI, SOIs are requested to add a special notation to the evaluation forms of such inmates prior to transfer, or to note their special status with the FPI factory when discussing the transferred inmate's prior experience with the receiving SOI.

[g. **Removals From Premium Pay Status.** Removal from premium pay status may occur for failure to demonstrate the premium pay selection traits or for failure to abide by the inmate worker standards set forth in this policy. All removals from premium pay status shall be documented on the inmate's evaluation form. The following conditions also may result in removal from premium pay status:

(1) Any premium pay inmate found to have committed any level 100 or 200 series offense by the DHO is automatically removed from premium pay status whether or not the offense was FPI-related.

(2) Inmates absent from work for more than 30 consecutive calendar days may be removed from premium pay status by the

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SOI.]

h. **Distribution of Premium Pay Positions.** FPI locations shall make every effort to put premium pay positions in each major department including the Business Office, Quality Assurance, and Warehouse groups. Distribution of Premium Pay positions is limited only by the number of first grade positions approved at each institution (15% of first grade positions).

5. **INCENTIVE PAY PLANS.** Except as provided for in detail in the FPI Accounting Manual, the maximum pay rate for each grade under the pay system may not exceed 120% of the standard hourly pay rate for corresponding pay grades. The SOI may approve hourly rates under incentive pay plans to exceed 120% of the corresponding standard hourly rates under unusual circumstances for a period not to exceed three months.

6. **[PIECEWORK RATES. §345.53** Piecework rates are incentives for workers to strive for higher pay and production benefiting both the worker and FPI. Piecework rates may be of two major types: individual piecework (in which an individual's pay goes up or down depending upon his/her own output) or Group Wage Fund (in which all members of a group strive for higher rates or production output as a unit, and all share in a pool of funds distributed among work group members equally).]

7. **[OVERTIME COMPENSATION. §345.54** An inmate worker is entitled to overtime pay at a rate of two times the hourly or unit rate for hourly, individual, and group piecework rate workers, when the total hours worked (including administrative pay) exceed the FPI factory's regularly scheduled workday. Hours worked on days other than the scheduled work week (e.g., Saturday) shall be compensated at the overtime rate.]

See the inmate payroll section of the FPI Accounting Manual.

8. **[LONGEVITY PAY §345.55**

a. Except as provided by paragraph (b) of this section, an inmate earns longevity pay raises after 18 months spent in FPI work status regardless of whether or not the work was continuous. The service may have occurred in one or more FPI factories or

shops. An inmate qualifies for longevity pay raises as provided in the table below:

LENGTH OF SERVICE WITH FPI

After 18 months of service and payable in the 19th month
After 30 months of service and payable in the 31st month
After 42 months of service and payable in the 43rd month
After 60 months of service and payable in the 61st month
After 84 months of service (& more) and payable in the 85th month

Longevity pay allowances shall be added after the wages for each actual hour in pay status have been properly computed.]

Refer to the FPI Accounting Manual for longevity pay computation instructions.

[b. Exceptions

(1) FPI work status during service of a previous sentence with a subsequent break in custody may not be considered in determining longevity pay.

(2) An inmate in segregation or who is given a disciplinary transfer loses any longevity status previously achieved.

(3) An inmate who voluntarily transfers to a non-FPI work assignment loses any longevity status previously achieved. An inmate who leaves FPI to enter education, vocational training, or drug abuse treatment programs, however, generally retains longevity and pay grade status upon return to FPI, unless the inmate withdraws from those programs without a good faith effort to complete them. The decision on whether there was a good faith effort is to be made by the SOI in concert with the staff member in charge of the program.]

9. [VACATION PAY. \$345.56 Inmate workers are granted FPI vacation pay by the SOI when their continued good work performance justifies such pay, based on such criteria as quality of work, attendance and punctuality, attentiveness, and adherence to industry operating regulations. The inmate must submit a written request for vacation time, ordinarily two weeks in advance of the requested vacation time. The work supervisor must recommend to the SOI the vacation time to be taken or paid. Eligibility for vacation pay must be verified by the Business

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Office prior to approval by the SOI. The SOI may declare an inmate ineligible for vacation credit because of an inmate's unsatisfactory work performance during the month in which such credit was to occur.]

An inmate must complete FPI Form 39, Request for Inmate Vacation, or a similar locally developed form requesting vacation time and submit it to the work supervisor, department head, and SOI for approval. (See the FPI Accounting Manual for detailed guidance on vacation pay/credit.)

[a. An inmate may take accrued vacation time for visits, participation in institution programs or for other good reasons at the discretion of the SOI. Industrial managers should make every reasonable attempt to schedule an inmate worker's vacations so as not to conflict with the workforce requirements of FPI factory production schedules and Inmate Systems Management requirements.

b. An inmate temporarily assigned to the Industrial detail, e.g., on construction details, also earns vacation credit which he or she must take or be paid for at the end of the temporary assignment.]

Such inmates are placed on the industrial payroll through execution of FPI Form 96 (see the inmate payroll section of the FPI Accounting Manual).

[c. An inmate must take and/or be paid for vacation credit within sixty days after each annual eligibility date of the inmate's most recent date of assignment to FPI. An inmate who elects not to take vacation time must indicate this in writing. That inmate shall receive pay for the annual vacation credit in a lump sum on the regular monthly payroll. This amount is ordinarily paid within sixty days after the annual eligibility date of the inmate's most recent date of assignment to FPI. An inmate whose employment is terminated by release, reassignment, transfer, or other reasons, and who has unused vacation credit shall be paid for this credit on the monthly payroll.]

10. [ADMINISTRATIVE PAY. \$345.57 An inmate excused from a job

assignment may receive administrative pay for such circumstances as a general recall for an institution, power outages, blood donations, or other situations at the discretion of the SOI. Such pay may not exceed an aggregate of three hours per month.]

11. [HOLIDAY PAY. \$345.58 An inmate worker in FPI work status shall receive pay at the standard hourly rate, plus longevity where applicable, for all Federal holidays provided the inmate is in work status on the day before and the day after the holiday occurs. Full-time workers receive one full day's pay. Part-time workers receive one-half day's pay.]

12. [INMATE PERFORMANCE PAY. \$345.59 Inmate workers for FPI may also receive Inmate Performance Pay for participation in programs where this award is made. However, inmate workers may not receive both Industries Pay and Performance Pay for the same program activity. For example, an inmate assigned to a pre-industrial class may not receive FPI pay as well as inmate performance pay for participation in the class.]

13. [TRAINING PAY. \$345.60 Inmates directed by the SOI to take a particular type of training in connection with an FPI job are to receive FPI pay if the training time occurs during routine FPI factory hours of operation. This does not include ABE\GED or pre-industrial training.]

Whenever possible, such inmates should be placed in classes occurring at times other than normal FPI factory operating hours. Where FPI factories are on a double shift, the inmate should take training at hours other than his or her scheduled shift.

14. [INMATE EARNINGS STATEMENT. \$345.61 Each inmate worker in FPI shall be given a monthly earnings statement while actively working for FPI.]

The SOI may determine the method of distributing the earnings statements.

15. [INMATE ACCIDENT COMPENSATION. \$345.62 An inmate worker shall be paid lost-time wages while hospitalized or confined to quarters due to work-related injuries (including occupational disease or illnesses directly caused by the worker's job assignments) as specified by the Inmate Accident Compensation Program (28 CFR part 301).]

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Full instructions are provided in the FPI Accounting Manual.

16. **POST-RELEASE INMATE ACCIDENT COMPENSATION.** Any definite or indefinite post-release award of inmate accident compensation made as a result of a work-related injury shall be expensed by the Financial Management Division of FPI during the month in which the award is determined. Definite awards are of a fixed amount and are paid in a lump sum. Indefinite awards are specific monthly awards made for an indefinite period. (See the FPI Accounting Manual).

17. **[FUNDS DUE DECEASED INMATES. \$345.63** Funds due a deceased inmate for work performed for FPI are payable to a legal representative of the inmate's estate or in accordance with the law of descent and distribution of the state of domicile.]

All funds due to the deceased inmate must be retained in the inmate's commissary account until legally authorized for distribution.

18. **[REFERRAL OF RELEASABLE MEDICAL DATA TO FPI STAFF. \$345.64** The SOI is responsible for ensuring that appropriate releasable information pertaining to an inmate's medical limitation (e.g., back injury) is made available to the FPI staff member who directly supervises the assignment.]

19. **[INMATE MEDICAL WORK LIMITATION. \$345.65** In addition to any prior illnesses or injuries, medical limitations also include any illness or injury sustained by an inmate which necessitates removing the ill worker from an FPI work assignment. If an inmate worker is injured more than once in a comparatively short time, and the circumstances of the injury suggest an awkwardness or ineptitude which in turn indicates that further danger exists, the inmate may be removed to another FPI detail or to a non-FPI detail.]

20. **[CLAIMS LIMITATION. \$345.66** Claims relating to pay and/or benefits must occur within one calendar year of the period of time for which the claim is made. Inmate claims submitted more than one year after the time in question require the approval of

the Assistant Director before an inmate may receive such pay and/or benefit.]

21. [RETENTION OF BENEFITS. \$345.67] Guidelines for retention of benefits for jobs, pay grades, longevity and vacation credit, waiting lists, and positions are to be found in the table following this chapter. Most generic situations involving retention of benefits problems are addressed and presented as guidelines in the table.

For unforeseen problems involving such benefits, the SOI is delegated authority to dispose of individual cases and is encouraged to contact the FPI Institution Relations Division for policy guidance and coordination. In general the benefits are depicted on a sliding scale of gain-retention-loss, depending on the severity of the situations as explained below and depicted in the table.

[a. Job Retention. Ordinarily, when an inmate is absent from the job for a significant period of time, the SOI will fill that position with another inmate, and the first inmate will have no entitlement to continued FPI employment.

(1) For up to the first 30 days when an inmate is in medical idle status, that inmate will retain FPI pay grade status, with suspension of actual pay, and will be able to return to FPI when medically able, provided the absence was not because of a FPI work-related injury resulting from the inmate's violation of safety standards. If the medical idle lasts longer than 30 days, was not caused by a violation of safety standards, and the unit team approves the inmate's return to FPI, the SOI shall place that inmate within the top ten percent of the FPI waiting list.

(2) Likewise, for up to the first 30 days when an inmate is in Administrative Detention, that inmate may retain FPI pay grade status, with actual pay suspended, and will be able to return to FPI, provided the inmate is not found to have committed a prohibited act. If Administrative Detention lasts longer than 30 days, and the inmate is not found to have committed a prohibited act, and the unit team approves the inmate's return to FPI, the SOI shall place that inmate within the top ten percent of the FPI waiting list.

(3) An inmate in Administrative Detention, and found to have committed a prohibited act, may return to FPI work status